

1  
2  
3 **Resolution Relating to**  
4

5 AUTHORIZATION TO ENTER INTO LICENSE AGREEMENT  
6 TO MAINTAIN TABLES AND CHAIRS ON A  
7 PORTION OF THE CITY'S RIGHT-OF-WAY WITH  
8 DAS BIERHAUS  
9  
10  
11

**RESOLUTION**  
~~Councilors Blais~~  
Sponsor(s): Tracy, Ayres, License Com.

Introduced: \_\_\_\_\_

Referred to: \_\_\_\_\_

Action: \_\_\_\_\_

Date: \_\_\_\_\_

Signed by Mayor: \_\_\_\_\_

12 **CITY OF BURLINGTON**  
13

14 In the year Two Thousand Thirteen.....

15 Resolved by the City Council of the City of Burlington, as follows:

16  
17 That WHEREAS, NICK'S HAUS, INC. d/b/a DAS BIERHAUS of Burlington, Vermont (hereinafter  
18 DAS BIERHAUS) is an establishment doing business in a commercial building located at 175 Church  
19 Street in the City of Burlington, Vermont; and

20 WHEREAS, DAS BIERHAUS desires to place 8 picnic tables with seating for 6 persons per table  
21 that will be surrounded by a physical barrier in the public right-of-way in front of its establishment at 175  
22 Church Street; and

23 WHEREAS, DAS BIERHAUS wishes to enter into a License Agreement with the City for such  
24 picnic tables; and

25 WHEREAS, the placement of the respective picnic tables has been reviewed and approved by the  
26 Department of Public Works with conditions to address public safety concerns; and

27 WHEREAS, the Charter of the City of Burlington, Sec. 48XLIX and the Code of Ordinances Sec.  
28 27-32 require authorization by the City Council for such use of a public thoroughfare for periods in excess  
29 of thirty (30) days;

30 NOW, THEREFORE, BE IT RESOLVED that this City Council hereby authorizes DAS  
31 BIERHAUS to place 8 picnic tables with seating for 6 persons per table covering a 608 sq. ft. area on a  
32 portion of the public right-of-way adjacent to its establishment on Church Street as indicated in and  
33 pursuant to its License Agreement for a period in excess of thirty (30) days upon entering into the License  
34 Agreement in substantially the form attached hereto; and

35 BE IT FURTHER RESOLVED that Mayor Miro Weinberger be and hereby is authorized to  
36 execute a License Agreement, in substantially the form attached, on behalf of the City of Burlington for a  
37 term commencing on the date of execution of the License Agreement and terminating on April 30, 2014.

**LICENSE AGREEMENT FOR TABLES AND CHAIRS**  
**DAS BIERHAUS**  
**2013-2014 SEASON**

This LICENSE AGREEMENT is made by and between the City of Burlington, a municipal corporation organized and validly existing under the laws of the State of Vermont (hereinafter CITY) and NICK'S HAUS, INC, d/b/a DAS BIERHAUS, a commercial establishment located at 175 Church Street, Burlington, Vermont (hereinafter DAS BIERHAUS or LICENSEE).

WHEREAS, the CITY owns property, including the street and sidewalk right-of-way adjacent to 175 Church Street; and

WHEREAS, DAS BIERHAUS stated on its application, attached hereto as Exhibit A, that it wishes to place 8 picnic tables with seating for 6 persons per table on the sidewalk area in front of the building at 175 Church Street; and

WHEREAS, DAS BIERHAUS as required by Department of Liquor Control General Regulation No. 42 agrees that a physical barrier shall be placed around the picnic tables and chairs and they will cover a 608 sq. ft. area; and

WHEREAS, this application was reviewed and approved by the Department of Public Works, attached hereto as Exhibit B; and

WHEREAS, such use of a public thoroughfare for periods in excess of 30 days requires approval of the City Council under Charter Sec. 48XLIX and Burlington Code of Ordinances Chap. 27, Sec. 27-32;

W I T N E S S E T H :

The CITY and DAS BIERHAUS enter into the following License Agreement:

1. TERM

The CITY grants to DAS BIERHAUS (hereinafter LICENSEE) a license to place 8 picnic tables with seating for 6 persons per table covering a 608 sq. ft. area on the public right-of-way at 174 Church Street for a term commencing as of the date of execution of this

Agreement and terminating on April 30, 2014 or sooner as provided herein.

2. LOCATION

LICENSEE may use and maintain the picnic tables on the public right-of-way not to exceed 608 square feet (hereinafter referred to as the premises) as an outdoor dining area.

Licensee must ensure that the sidewalk area is kept clear and at all times there is an 8 ft. right-of-way for pedestrian traffic. The tables and chairs shall be placed as approved by the Department of Public works. A copy of the approved plan is attached hereto as Exhibit C.

3. MAINTENANCE

a. LICENSEE shall maintain the picnic tables in proper condition.

b. LICENSEE shall be responsible for the maintenance and upkeep of the picnic tables and any damage to the picnic tables is solely the responsibility of LICENSEE. Should LICENSEE fail to maintain the picnic tables, this License Agreement is revocable on notice by the CITY to LICENSEE of a violation of this section; however LICENSEE shall have 14 days to cure any problem if it notifies the CITY in writing within three (3) days of its intent to cure the violation.

c. The picnic tables shall be placed in an area totaling 608 square feet, with a proper barrier on all sides, as follows: 8 feet out from the building, 2 feet in from the north and south boundary lines of the property and 2 feet in from the outside of the curb (at red pavers). The picnic tables shall be placed in accordance with all conditions set by the Department of Public Works, attached hereto as Exhibit B, and shall not impede the CITY'S ability to maintain the road, sidewalk, parking meters or greenbelt, if any.

d. The picnic tables shall not cause an obstruction or inconvenience to members of

the public using the sidewalk, parking meters or street.

e. LICENSEE shall pick up and sweep debris created by its use of the public right-of-way.

f. LICENSEE will clear the picnic tables from the sidewalk by 9:00 p.m.

#### 4. LICENSE FEE

There shall be a fee for this license equal to the encumbrance application fee and the square foot use fee. This fee shall be payable immediately to the Burlington City Clerk's Office. **Failure to pay the annual fee shall result in the immediate revocation of the license.**

#### 5. REVOCATION

This License Agreement is immediately revocable should LICENSEE discontinue use of the picnic tables. In any event, this Agreement is revocable by the CITY within 30 days upon sending written notice to LICENSEE. Upon revocation, LICENSEE must remove at its own expense the picnic tables and other materials or obstructions placed on the property. If LICENSEE refuses to promptly remove such obstructions, they may be removed by the CITY and LICENSEE shall be liable for all expenses of such removal.

#### 6. INSURANCE

a. LICENSEE shall maintain in effect throughout the term of this Agreement comprehensive public liability insurance with an A-rated insurance carrier, or better, qualified to transact business in the State of Vermont, insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted pursuant to this Agreement in an



amount not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate. The CITY shall be named as an additional insured on such insurance policy.

b. Prior to execution of this Agreement, LICENSEE shall furnish the CITY with a certificate of insurance and endorsement which shall include the provision that the CITY is named as an additional insured and shall be given 15 days written notification prior to any cancellation of such insurance for nonpayment of premium and 45 days notice for any other reason. The certificate shall be attached to this Agreement as Exhibit D and the endorsement as Exhibit E.

c. The certificate of insurance shall be provided annually on or before its stated expiration. It is the responsibility of LICENSEE to ensure that a current certificate of insurance is on file with the CITY at all times. **Failure to furnish a current certificate of insurance will result in immediate revocation of this license.**

#### 7. INDEMNIFICATION

LICENSEE agrees to indemnify, defend and hold the CITY harmless and free from liability arising out of LICENSEE'S use of the CITY'S right-of-way, and LICENSEE agrees to make no claim against the CITY or any of its officers, employees, agents or representatives for any loss or damage caused by the CITY'S use or maintenance of its right-of-way.

#### 8. PERMITS

LICENSEE shall be responsible for obtaining all necessary CITY and/or State permits including zoning permits, prior to placement of the picnic tables.

#### 9. NUISANCES PROHIBITED

LICENSEE shall not, during the term hereof, on or in the premises maintain, commit,

or permit the maintenance or commission of any nuisance or violation of any applicable City of Burlington ordinance, State or Federal statute, or controlling bylaw, regulation, or condition imposed whether existing at the time of commencement of this Agreement or enacted, amended, or otherwise put into effect during the term of this Agreement.

10. ASSIGNMENT OF RIGHTS

LICENSEE shall not sell or assign its rights pursuant to this Agreement or permit the use of the premises or any part thereof by any other entity without the express prior written consent of the CITY. Any unauthorized action in violation of this provision shall be void, and shall terminate LICENSEE'S rights pursuant to this Agreement.

11. LIMITATION OF RIGHTS

LICENSEE acknowledges that no property or other right is created other than that specifically defined and limited by this Agreement.

12. This License Agreement supersedes all other License Agreements executed for this location.

DATED at Burlington, Vermont this \_\_\_\_\_ day of \_\_\_\_\_,

2013.

CITY OF BURLINGTON

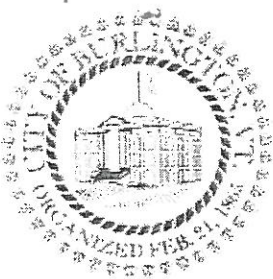
\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Miro Weinberger, Mayor  
Duly Authorized

NICK'S HAUS, INC. d/b/a  
DAS BIERHAUS

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Duly Authorized



OFFICE OF THE CLERK AND TREASURER  
149 CHURCH STREET  
BURLINGTON, VT 05401  
Voice (802)865-7000  
FAX (802)865-7014  
TTY (802)865-7142  
Amy Bovee (802)865-7019  
Ron Gore (802)865-7562

## Encumbrance Application / Renewal

DBA NAME: DAS BIERHAUS  
CONTACT NAME: NICK KARABEUS  
MAILING ADDRESS: PO BOX 327  
BURLINGTON, VT 05401

DATE: 4/17/13  
PHONE: (802)641-3497 312: 821-0600  
FAX: \_\_\_\_\_  
EMAIL: NICK@DASBIERHAUS.VT.COM

DBA NAME: DAS BIERHAUS  
COMPANY: NICK'S HAUS INC  
LOCATION OF ENCUMBRANCE: 175 CAVENDISH STREET

MAY 20 2013

RECEIVED

Permission is requested to allow/continue the encumbrance in the following area and manner (please describe fully, including size and physical barriers around area i.e. trees, grates, parking meters, etc with photos, diagrams, blueprints; may reference prior application):

Description: SEATING AREA IS LOCATED STREETSIDE @ 175 CAVENDISH ST. & (ROUGHLY) EXTENDS THE LENGTH OF OUR BUILDING, & ALLEY AND FROM 5' IN FRONT OF IT, TO 2' BACK FROM THE CURB. AREA CONTAINS PICNIC TABLES (BEHIND), IS MARKED BY BARRIERS AND PLANTERS/TREES (TALLEST 4'6")

Total Square Feet (\$1.00 per SF): 608

### PLEASE ATTACH:

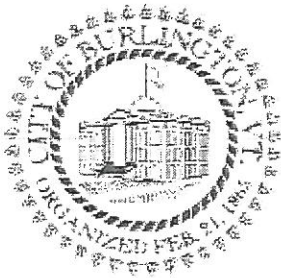
1. Certificate of Liability Insurance with holder as the: "CITY OF BURLINGTON, CLERK/TREASURER'S OFFICE ENCUMBRANCE APPLICATION DEPT., 149 CHURCH ST., BURLINGTON, VT 05401"
2. Endorsement to Insurance Policy outlining the Cancellation Policy
3. Endorsement to Insurance Policy listing the City as Additional Insured
4. Sketch, Photo, or Blueprint of what you are proposing.
5. Check for the square feet fees (\$1 per square foot) + \$25 Application fee: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

For office use only: Amount received \$ 633 on 4/25 Check # 1678  
Sent to DPW: 4/26 Sent to Attorney: 5/17

Exhibit A





OFFICE OF THE CLERK AND TREASURER  
149 CHURCH STREET  
BURLINGTON, VT 05401  
Voice (802)865-7000  
FAX (802)865-7014  
TTY (802)865-7142  
Amy Bovee (802)865-7019  
Ron Gore (802)865-7562

## Encumbrance DPW Approval Form

Effective 05/01/2013 - 04/30/2014

ATTENTION: RON GORE, BURLINGTON DEPARTMENT OF PUBLIC WORKS

DBA NAME: Das Bierhaus

DATE: Friday, April 26, 2013

COMPANY: Nick's Haus, Inc.

PHONE: 207641-3497

LOCATION: 175 Church Street

FAX:

MAILING ADDRESS: Nick Karabelas  
PO BOX 327

### RACKS / RAMPS / STAIRS / TABLES / CHAIRS ETC

1. Racks, ramps, sidewalks encumbrances should be located on private property, if possible. In the opinion of the City Building Inspector, is there an available alternative location for the ramp on private property? Yes ☐ No ☒

2. Will there be sufficient width for plows and pedestrian access if racks, ramp, sidewalk, tables & chairs encumbrances are added on the sidewalk? Yes ☒ No ☐

3. Additional Comments: TABLES/CHAIRS WITH BANNER

4. A 608 square foot placement of SEATING ARE IS LOCATED STREETSIDE AT 175 CHURCH ST AND EXTENDS THE LENGTH OF THE BUILDING AND ALLEY FROM 5' IN FRONT OF IT TO 2'

### DEPARTMENT OF PUBLIC WORKS

Approved? Yes ☒

No ☐

Explain: \_\_\_\_\_

ROW TO BE IN MINIMUM OF 6'  
FROM BUILDING TO DIVISION

Signature

Ron Gore

Date:

05/17/13

*Exhibit B*



# Das Bierhaus \*revised\* Outdoor Front Seating — 06.08.2011

A: Standard Picnic Table — 5' x 6'

B: Public Traffic

C: Front Door

D: Alley Entrance

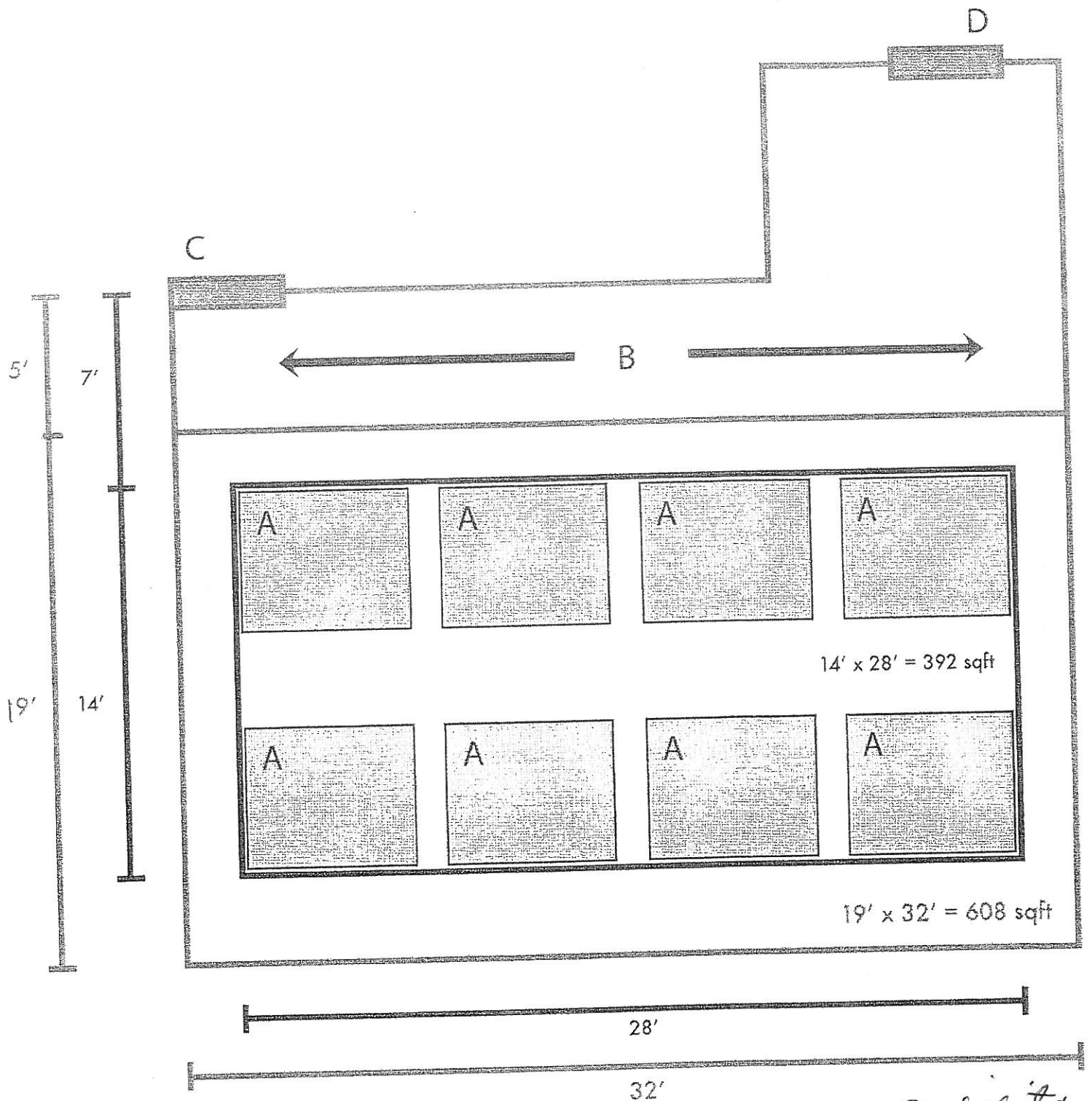
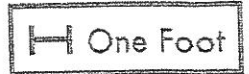


Exhibit C



# CERTIFICATE OF LIABILITY INSURANCE

DASBIER-01

LSM

DATE (MM/DD/YYYY)

4/25/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Hickok & Boardman, Inc. - BUR 346 Shelburne Road PO Box 1064 Burlington, VT 05402-1064	(802) 658-3500	CONTACT NAME: Laureen Mathon PHONE (A/C, No, Ext): (802) 383-1642 FAX (A/C, No): 802-658-0541 E-MAIL ADDRESS: lmathon@hbinsurance.com
INSURED Nick's Haus dba Das Bierhaus PO Box 327 Burlington, VT 05402		INSURER(S) AFFORDING COVERAGE INSURER A: Hospitality Insurance Company INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LIR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	X	44000052GL	11/9/2012	11/9/2013	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS					COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB EXCESS LIAB DED RETENTION \$	<input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ AGGREGATE \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input type="checkbox"/> N/A				WC STATUTORY LIMITS E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Certificate Holder shown below is named additional insured on the General Liability per form CG2026 07 04 for outside front seating on sidewalk located at 175 Church Street, Burlington, VT

## CERTIFICATE HOLDER

## CANCELLATION

City of Burlington City Clerk's Office / Encumbrance Application Division 149 Church Street Burlington, VT 05401-	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
--	---

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Exhibit D



Hospitality Insurance Company

95A Turnpike Road, 1st Floor  
Westborough, MA 01581  
(877) 366-1140

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
DECLARATIONS PAGE

POLICY NO.: 44000050GL

NAMED INSURED AND MAILING ADDRESS

Nick's Haus D/B/A  
Das Bierhaus  
P.O. Box 327  
Burlington, VT 05402

AGENT AND MAILING ADDRESS

Hickok & Boardman, Inc.  
346 Shelburne Road  
P.O. Box 1064  
Burlington, VT 05402

Agent Code: 1791

Additional Insured:  
City of Burlington  
149 Church Street  
Burlington VT 05401

POLICY PERIOD: FROM 11/09/2012 TO 11/09/2013 AT 12:00 AM STANDARD TIME  
AT THE INSURED'S MAILING ADDRESS SHOWN ABOVE.

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY,  
WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

LIMITS OF INSURANCE

Each Occurrence Limit	\$1,000,000	
Legal Liability to Premises Rented to You Limit	\$300,000	Any one premises
Medical Expense Limit	\$5,000	Any one person
Personal and Advertising Injury Limit	\$1,000,000	Any one person or organization
General Aggregate Limit	\$2,000,000	
Products / Completed Operations Aggregate Limit	\$2,000,000	

RETROACTIVE DATE (CG 00 02 ONLY)

THIS INSURANCE DOES NOT APPLY TO "BODILY INJURY", "PROPERTY DAMAGE" OR "PERSONAL AND  
ADVERTISING INJURY" WHICH OCCURS BEFORE THE RETROACTIVE DATE, IF ANY, SHOWN BELOW.

RETROACTIVE DATE: \_\_\_\_\_  
(ENTER DATE OR "NONE" IF NO RETROACTIVE DATE APPLIES)

DESCRIPTION OF BUSINESS

FORM OF BUSINESS: Partnership

BUSINESS DESCRIPTION: 175 Church Street, Burlington, Chittenden County VT, 05401

*Exhibit E*



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## VERMONT CHANGES – CANCELLATION AND NONRENEWAL

This endorsement modifies insurance provided under the following:

CAPITAL ASSETS PROGRAM (OUTPUT POLICY) COVERAGE PART  
COMMERCIAL AUTOMOBILE COVERAGE PART  
COMMERCIAL GENERAL LIABILITY COVERAGE PART  
COMMERCIAL INLAND MARINE COVERAGE PART  
COMMERCIAL LIABILITY UMBRELLA COVERAGE PART  
COMMERCIAL PROPERTY COVERAGE PART  
CRIME AND FIDELITY COVERAGE PART  
EMPLOYMENT-RELATED PRACTICES LIABILITY COVERAGE PART  
EQUIPMENT BREAKDOWN COVERAGE PART  
FARM UMBRELLA LIABILITY POLICY  
LIQUOR LIABILITY COVERAGE PART  
MEDICAL PROFESSIONAL LIABILITY COVERAGE PART  
POLLUTION LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

- A. The **Cancellation** Common Policy Condition is replaced by the following:

### CANCELLATION

1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.

2. Cancellation Of Policies In Effect For Less Than 60 Days.

If this policy has been in effect for less than 60 days and this policy is not a renewal of a policy we issued, we may cancel this policy by:

- a. Giving the first Named Insured at least 15 days' notice prior to the cancellation date for nonpayment of premium or substantial increase in hazard; or

- b. Mailing or delivering the first Named Insured at least 45 days' notice prior to the cancellation date for any other reason.

If cancellation is for nonpayment of premium, written notice may be sent by certificate of mailing or certified mail. If cancellation is for any reason other than nonpayment of premium, written notice must be sent by certified mail.

3. Cancellation Of Policies In Effect For 60 Days Or More.

If this policy has been in effect for 60 days or more, or if this is a renewal of a policy we issued, we may cancel this policy only for one or more of the following reasons:

- a. Nonpayment of premium;
- b. Fraud or material misrepresentation affecting this policy or in the presentation of claims under this policy;
- c. Violation of any provisions of this policy; or
- d. Substantial increase in hazard, provided we have secured approval for the cancellation from the commissioner of insurance.

If we cancel this policy for one of the reasons specified in Paragraph 3., we will cancel only in the following manner:

- a. By giving at least 15 days' notice before the effective date of cancellation if we cancel for nonpayment of premium; or
- b. By mailing or delivering at least 45 days' notice before the effective date of cancellation if we cancel for any other reason.

Written notice of cancellation, including the reason for cancellation, will be mailed or delivered to the first Named Insured at the first Named Insured's last mailing address known to us.

If cancellation is for nonpayment of premium, written notice may be sent by certificate of mailing or certified mail. If cancellation is for any reason other than nonpayment of premium, written notice must be sent by certified mail.

4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.

5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.

6. If notice is mailed, proof of mailing will be sufficient proof of notice.

B. Any **When We Do Not Renew** Condition is deleted.

The following Conditions are added:

#### 1. WHEN WE DO NOT RENEW

a. We may elect not to renew this policy by mailing, by certified mail, or delivering written notice of nonrenewal to the first Named Insured's last mailing address known to us. We will mail or deliver this notice at least 45 days before the:

(1) Expiration of the policy; or

(2) Anniversary date of this policy if this policy has been written for a term of more than one year.

b. This provision does not apply:

(1) If we have indicated a willingness to renew;

(2) In case of nonpayment of premium;

(3) If you do not pay any advance premium required by us for renewal; or

(4) If any property covered in this policy is insured under any other insurance policy.

#### 2. RENEWAL

a. If we:

(1) Elect to renew this policy; and

(2) Have the necessary information to issue a renewal policy,

we will confirm in writing at least 45 days before it expires our intention to renew this policy; and the premium at which this policy will be renewed.

b. If we do not comply with the provisions of Paragraph a., you will have renewal coverage. The renewal coverage will be at the rates:

(1) In effect under the expiring or expired policy; or

(2) In effect on the expiration date, that have been approved by the Commissioner,

whichever are lower.

This renewal coverage will be on a pro rata basis and will continue for 45 days after we confirm renewal coverage and premium. If you accept this renewal policy, this Paragraph b. does not apply.